

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Teamsters Local Union No. 206

and

Safeway, Inc.

Cases 19-CB-168283
19-CB-178098
19-CB-192630

ORDER DENYING MOTION FOR RECONSIDERATION¹

The Charging Party's motion for reconsideration/clarification of the Board's Decision and Order reported at 368 NLRB No. 15 (2019) is denied.² The Charging Party has not identified any material error or demonstrated extraordinary circumstances warranting reconsideration under Section 102.48(c)(1) of the Board's Rules and Regulations.

Dated, Washington, D.C., March 12, 2020.

John F. Ring, Chairman

Marvin E. Kaplan, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

¹ Member Emanuel is a member of the panel but did not participate in this decision on the merits.

In *New Process Steel v. NLRB*, 560 U.S. 674 (2010), the Supreme Court left undisturbed the Board's practice of deciding cases with a two-member quorum when one of the panel members has recused himself. Under the Court's reading of the Act, "the group quorum provision [of Sec. 3(b)] still operates to allow any panel to issue a decision by only two members if one member is disqualified." *New Process Steel*, 560 U.S. at 688. See also, e.g., *D. R. Horton, Inc.*, 357 NLRB 2277, 2277 fn. 1 (2012), enfd. in relevant part 737 F.3d 344 (5th Cir. 2013); *NLRB v. New Vista Nursing and Rehabilitation*, 870 F.3d 113, 127-128 (3d Cir. 2017); *1621 Route 22 West Operating Company*, 357 NLRB 1866, 1866 fn. 1 (2011), enfd. 725 Fed. Appx. 129 (3d Cir. 2018).

² The Respondent filed an opposition to the Charging Party's motion for reconsideration.